

CASE BEING CONSIDERED FOR TREATMENT
PURSUANT TO RULE 34(j) OF THE GENERAL RULES

No. 05-5359

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

WE THE PEOPLE FOUNDATION, INC., et al.

Appellants

v.

UNITED STATES OF AMERICA, et al.,

Appellees

ON APPEAL FROM AN ORDER OF
THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

BRIEF FOR THE APPELLEES

EILEEN J. O'CONNOR
Assistant Attorney General

KENNETH L. GREENE (202) 514-3573
CAROL BARTHEL (202) 514-2921

Attorneys
Tax Division
Department of Justice
Post Office Box 502
Washington, D.C. 20044

Of Counsel:

KENNETH L. WAINSTEIN
United States Attorney

**CERTIFICATE AS TO PARTIES, RULINGS,
AND RELATED CASES**

(a) *Parties and Amici*. The following are all parties, intervenors, and amici who appeared before the district court and in this court:

Cherie Austin, plaintiff-appellant

Gary Austin, plaintiff-appellant

Ryan Austin, plaintiff-appellant

Steven Perry Austin, plaintiff-appellant

Joseph Banister, plaintiff-appellant

Jerrold L. Bergemeyer, plaintiff-appellant

Frank R. Bootz, plaintiff-appellant

John Boyce, plaintiff-appellant

Terry Bressi, plaintiff-appellant

Nora Bristol, plaintiff-appellant

Richard L. Bristol, plaintiff-appellant

Mark Brittain, plaintiff-appellant

Van Brollini, plaintiff-appellant

John Bruner, plaintiff-appellant

Brian P. Brush, plaintiff-appellant

Kevin L. Cannon, plaintiff-appellant

Craig M. Coble, plaintiff-appellant

Ronald W. Coble, plaintiff-appellant

Constitutional Defender Society, proposed *amicus* on appeal

Cheryl L. Cook, plaintiff-appellant

James T. Cook, plaintiff-appellant

Roger D. Cook, plaintiff-appellant

Sheila Cook, plaintiff-appellant

Stephen Cook, plaintiff-appellant

Johnny W. Corley, plaintiff-appellant

Cecelia Grace, plaintiff-appellant

Richard E. Hardy, plaintiff-appellant

Jackie Harrell, plaintiff-appellant

Internal Revenue Service, defendant-appellee

Sherry Peel Jackson, plaintiff-appellant

Louis M. Joy, plaintiff-appellant

Stacy Kline, plaintiff-appellant

Bob J. Malone, plaintiff-appellant

Mary Malone, plaintiff-appellant

Joseph Nelson, plaintiff-appellant

Aleta Q. Parker, plaintiff-appellant

David R. Parker, plaintiff-appellant

Queen Aleta Parker, plaintiff-appellant

Harrison Pugh, plaintiff-appellant

Kenneth Ray Pugh, plaintiff-appellant

David Schneider, plaintiff-appellant

Robert L. Schultz, plaintiff-appellant

Leon Sikes, plaintiff-appellant

Marilyn Smith, plaintiff-appellant

Jerry D. Stromer, plaintiff-appellant

Alvin A. Tolbert, plaintiff-appellant

John Turner, plaintiff-appellant

U. S. Department of Justice, defendant-appellee

U. S. Treasury Department, defendant-appellee

United States of America, defendant-appellant

We the People Congress, Inc., plaintiff-appellant

We the People Foundation, Inc., plaintiff-appellant

James A. Williams, plaintiff-appellant

John Wolfgram, proposed *amicus* on appeal

Don C. Wornock, plaintiff-appellant

(B) *Rulings under review.* The ruling under review is the order of the United States District Court for the District of Columbia entered August 31, 2005 (A. 13),¹ pursuant to the court's opinion and order also entered August 31, 2005 (A. 6–12).

(C) *Related cases.* This case has not previously been before this Court or any other appellate court or court in the District of Columbia, except for the case currently under appeal to this Court. We are aware that the appellants cite *Robert L. Schulz, et al. v. Washington County Board of Supervisors, et al.* (2nd Cir. – No. 05-0259), as a related case.

¹ “A.” references are to pages in the separately bound record appendix. “R.” references are to docket items in the record below as numbered by the clerk of the district court.

TABLE OF CONTENTS

	Page(s)
Certificate as to parties, rulings, and related cases	i
Glossary	xii
Statement of jurisdiction	1
Statutes and regulations	3
Statement of the case	3
Statement of the facts	4
Summary of argument	13
Argument:	
I. WTP's amended complaint was subject to dismissal for lack of subject-matter jurisdiction	16
Standard of review	16
A. Introduction: sovereign immunity	17
B. WTP fails to show a waiver of sovereign immunity to its claims	19
1. 28 U.S.C. § 1331	20
2. 28 U.S.C. § 1343 and 42 U.S.C. § 1983	22
3. 28 U.S.C. § 2679(b)	23
4. 5 U.S.C. § 702	24
C. The Anti-Injunction Act, I.R.C. § 7421(a), precludes the injunctive relief WTP seeks	27
1. The Anti-Injunction Act bars injunctive suits with respect to federal taxes	27

2.	None of the exceptions to the Anti-Injunction Act applies here	29
II.	The complaint was correctly dismissed for failure to state a claim upon which relief could be granted	33
	Standard of review	33
A.	Introduction	33
B.	The First Amendment imposed no obligation on the Government to “properly respond” to WTP’s petitions	34
C.	The First Amendment imposes no obligation on the Government to refrain from enforcing the federal tax laws against individual plaintiffs	41
	Conclusion	46
	Certificate of compliance	47
	Addendum	48
	Certificate of service	54

13

TABLE OF AUTHORITIES

Cases:

<i>Adams v. Commissioner</i> , 170 F.3d 173 (3d Cir. 1999)	42
<i>Aetna Casualty & Surety Co. v. United States</i> , 71 F.3d 475 (2d Cir. 1995)	24
<i>Alexander v. "Americans United" Inc.</i> , 416 U.S. 752 (1974)	28
<i>Allied Chemical Corp. v. Daiflon, Inc.</i> , 449 U.S. 33 (1980)	45

* Authorities upon which we chiefly rely are marked with asterisks

	Page(s)
Cases (continued):	
<i>Arford v. United States</i> , 934 F.2d 229 (9th Cir. 1991)	21
* <i>Bi-Metallic Investment Co. v. State Board of Equalization</i> , 239 U.S. 441 (1915)	36, 39
<i>Bieregu v. Reno</i> , 59 F.3d 1445 (3d Cir. 1995)	37
* <i>Bob Jones University v. Simon</i> , 416 U.S. 725 (1974)	27, 28, 32
<i>Carman v. Parsons</i> , 789 F.2d 1532 (11th Cir. 1986)	22
<i>Cecilia Packing Corp. v. United States Department of Agriculture</i> , 10 F.3d 616 (9th Cir. 1993)	39
<i>Covad Communications Co. v. Bell Atlantic Corp.</i> , 398 F.3d 666 (D.C. Cir. 2005)	33
<i>Czerkies v. U.S. Department of Labor</i> , 73 F.3d 1435 (7th Cir. 1996)	19, 21, 25
<i>DeGrassi v. City of Glendora</i> , 207 F.3d 636 (9th Cir. 2000)	36
<i>District of Columbia v. Carter</i> , 409 U.S. 418 (1973)	22
<i>Dugan v. Rank</i> , 372 U.S. 609 (1963)	18
<i>Enochs v. Williams Packing & Navig. Co.</i> , 370 U.S. 1 (1962)	29, 32
<i>FDIC v. Meyer</i> , 510 U.S. 471 (1994)	17, 21, 24
<i>Fishburn v. Brown</i> , 125 F.3d 979 (6th Cir. 1997)	24
<i>Flora v. United States</i> , 362 U.S. 145 (1960)	29
<i>Foodservice and Lodging Institute, Inc. v. Regan</i> , 809 F.2d 842 (D.C. Cir. 1987)	29, 30
<i>Fornaro v. James</i> , 416 F.3d 63 (D.C. Cir. 2005)	26, 45
<i>Fostvedt v. United States</i> , 978 F.2d 1201 (10th Cir. 1992)	20, 21
<i>Fraternal Order of Police v. Ocean City</i> , 916 F.2d 919 (4th Cir. 1990)	39
<i>Galvan v. Federal Prison Industrial</i> , 199 F.3d 461 (D.C. Cir. 1999)	18
<i>Hindes v. FDIC</i> , 137 F.3d 148 (3d Cir. 1998)	22
<i>Hughes v. United States</i> , 953 F.2d 531 (9th Cir. 1992)	26
* <i>Judicial Watch, Inc. v. Rossotti</i> , 317 F.3d 401 (4th Cir. 2003)	28
<i>Kahn v. United States</i> , 753 F.2d 1208 (3d Cir. 1985)	42
<i>Kalodner v. Abraham</i> , 310 F.3d 767 (D.C. Cir. 2003)	18

	Page(s)
Cases (continued):	
<i>Lane v. Pena</i> , 518 U.S. 187 (1996)	17, 19
<i>Lee v. Blumenthal</i> , 588 F.2d 1281 (9th Cir. 1979)	26
<i>Lonsdale v. United States</i> , , 919 F.2d 1440 (10th Cir. 1990) . . .	26
<i>McCollum v. Bolger</i> , 794 F.2d 602 (11th Cir. 1986)	24
* <i>McDonald v. Smith</i> , 472 U.S. 479 (1985)	35
<i>Miller v. United States</i> , 868 F.2d 236 (7th Cir. 1989)	41
* <i>Minnesota State Board v. Knight</i> , 465 U.S. 271 (1984)	36, 37 38, 39, 40
* <i>National Taxpayers Union, Inc. v. United States</i> , 68 F.3d 1428 (D.C. Cir. 1995)	16, 29, 30, 32
<i>Navy, Marshall & Gordon, P.C. v. U.S. Internat'l Development Cooperation Agency</i> , 557 F. Supp. 484 (D.D.C. 1983) .	21, 22
<i>Perkins v. United States</i> , 55 F.3d 910 (4th Cir. 1995)	24
<i>Phillips v. Commissioner</i> , 283 U.S. 589 (1931)	32
<i>Randell v. United States</i> , 64 F.3d 101 (2d Cir. 1995)	31
<i>San Filippo v. Bongiovanni</i> , 30 F.3d 424 (3d Cir. 1994)	39
<i>Schiff v. United States</i> , 919 F.2d 830 (2d Cir. 1990)	41
<i>Settles v. U.S. Parole Commission</i> , 429 F.3d 1098 (D.C. Cir. 2005)	19, 22, 23, 25
<i>Shanbaum v. United States</i> , 32 F.3d 180 (5th Cir. 1994)	20
* <i>Smith v. Arkansas State Highway Employees, Local 1315</i> , 441 U.S. 463 (1979)	12, 35, 36, 38
<i>Sopcak v. N. Mountain Helicopter Serv.</i> , 52 F.3d 817 (9th Cir. 1995)	19
<i>Soriano v. United States</i> , 352 U.S. 270 (1957)	17
<i>South Carolina v. Regan</i> , 465 U.S. 367 (1984)	29, 30, 31
<i>Transohio Sav. Bank v. OTS</i> , 967 F.2d 598 (D.C. Cir. 1992) . . .	26
<i>United States ex rel. Girard Trust Co. v. Helvering</i> , 301 U.S. 540 (1937)	45
<i>United States v. Dalm</i> , 494 U.S. 596 (1990)	17
<i>United States v. Idaho</i> , 508 U.S. 1 (1993)	17
<i>United States v. Kelley</i> , 864 F.2d 569 (7th Cir. 1989)	42

Cases (continued):

United States v. Malinowski, 472 F.2d 850 (3d Cir. 1973) 43
United States v. Mitchell, 445 U.S. 535 (1980) 17
United States v. Ness, 652 F.2d 890 (9th Cir. 1981) 43
United States v. Rowlee, 899 F.2d 1275 (2d Cir. 1990) 42
United States v. Sherwood, 312 U.S. 584 (1941) 17
Warren v. United States, 874 F.2d 280 (5th Cir. 1989) 27
Webman v. Federal Bureau of Prisons, 441 F.3d 1022
(D.C. Cir. 2006) 17, 19
Welch v. United States, 750 F.2d 1101 (1st Cir. 1985) 43
Wilcox v. Commissioner, 848 F.2d 1007 (9th Cir. 1988) 41
Younger v. Harris, 401 U.S. 37 (1971) 32

Statutes:

Internal Revenue Code (26 U.S.C.):

§ 1 9
§ 871 9
§ 6231 30
§ 6303 44
§ 6320 13, 31
§ 6321 44
§ 6330 13, 31
§ 6331 44
§ 7271-75 44
§ 7402-05 44
§ 7407-08 44
* § 7421 13, 15, 20, 26, 27, 28
§ 7422 13
§ 7426 13, 31
§ 7431-33 31

	Page(s)
Statutes (continued):	
§ 7442	30
§ 7601-08	44
 5 U.S.C.	
§ 551	25
§ 701	26
§ 702	14, 20, 24, 25, 26
§ 704	25
 28 U.S.C. :	
§ 515	44
§ 547	44
§ 1291	2
§ 1331	2, 13, 20, 22
§ 1343	2, 13, 20, 22
§ 1346	14, 23, 31
§ 1361	45
§ 1391	2, 20
§ 1491	31
§ 2107	2
* § 2201	13, 20, 28
§ 2671	14, 23
§ 2674	23
§ 2675	24
§ 2679	2, 20, 23
§ 2680	24
 42 U.S.C.:	
§ 1983	2, 14, 19, 20, 22
 50 U.S.C.:	
§ 1541	11

	Page(s)
Miscellaneous:	
Akhil R. Amar, "The Bill of Rights as a Constitution," 100 Yale L.J. 1131, 1156 (1991)	37
Federal Rules of Appellate Procedure:	
Rule 4	2
Federal Rules of Civil Procedure:	
Rule 12	4
Norman Smith, "Shall Make No Law Abridging . . .": An Analysis of the Neglected, But Nearly Absolute, Right of Petition," 54 U. Cin. L. Rev. 1153, 1190-01 (1986)	38
Note, "A Short History of the Right to Petition Government for the Redress of Grievances," 96 Yale L.J. 142, 164 (1986)	37
Rev. Rul. 2005-19, 2005-14 I.R.B. 1 (March 14, 2005)	41
Why Do I Have to Pay Taxes?, IRS Pub. No. 2105 (Rev. 10- 2003)	40

GLOSSARY

<i>Abbreviation</i>	<i>Definition</i>
A.	Appellants' appendix
<i>Amicus Br.</i>	Brief of proposed <i>amici curiae</i> Constitutional Defender Association and John Wolfgram
Br.	Appellants' brief
Code or I.R.C.	Internal Revenue Code (26 U.S.C.)
FTCA	Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671 <i>et seq.</i>
R.	Docket items in the record as numbered by the clerk of the district court
WTP	Appellants We the People Foundation, Inc., We the People Congress, Inc., and named individuals

**CASE BEING CONSIDERED FOR TREATMENT
PURSUANT TO RULE 34(j) OF THE GENERAL RULES**

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

No. 05-5359

WE THE PEOPLE FOUNDATION, INC., *et al.*

Appellants

v.

UNITED STATES OF AMERICA, *et al.*,

Appellees

**ON APPEAL FROM AN ORDER OF
THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

BRIEF FOR THE APPELLEES

STATEMENT OF JURISDICTION

On July 19, 2004, appellants We the People Foundation, Inc., We the People Congress, Inc., and several named individuals (collectively, “WTP”) filed a complaint and, on September 16, 2004, an amended

complaint in the district court against the United States, the U.S. Treasury Department, the Internal Revenue Service, and the U.S. Department of Justice (collectively, “the Government”), seeking declaratory and injunctive relief. (R. 1; A. 14–134.)¹ WTP asserted jurisdiction under 28 U.S.C. §§ 1331, 1343, 1391(e), and 2679(b)(1) and 42 U.S.C. § 1983. (A. 90–91.) As explained below, the district court lacked jurisdiction over WTP’s claims because sovereign immunity had not been waived. In any event, the amended complaint failed to state a claim upon which relief could be granted.

The district court (Hon. Emmet G. Sullivan) entered judgment in favor of the Government on August 31, 2005. (A. 13.) On September 15, 2005, within 60 days thereafter, WTP filed a notice of appeal (R. 30), which was timely under 28 U.S.C. § 2107 and Fed. R. App. P. 4(a)(1)(B). This Court has jurisdiction under 28 U.S.C. § 1291.

¹ “A.” references are to pages in the separately bound record appendix. “R.” references are to docket items in the record below as numbered by the clerk of the district court.

STATEMENT OF THE ISSUES

1. Whether WTP's claims were subject to dismissal for lack of subject-matter jurisdiction because the Government had not waived its sovereign immunity to those claims.

2. Whether the complaint was correctly dismissed for failure to state a claim upon which relief could be granted where WTP failed to show that the Government had a duty to respond to its requests for information or to refrain from enforcing the federal tax laws against individual plaintiffs.

STATUTES AND REGULATIONS

All relevant statutes are set forth in the addendum to this brief.

STATEMENT OF THE CASE

This is an action to compel the United States (i) to provide “documented and specific answers” to questions that WTP presented to certain Government officials respecting the constitutionality of the federal income tax and other Government programs and activities and (ii) to enjoin the Government from enforcing the federal tax laws with respect to individual plaintiffs. (A. 78–79, 102–03.)

The Government moved to dismiss the amended complaint for lack of subject-matter jurisdiction and failure to state a claim upon which relief could be granted. (A. 135–62.) The district court issued an order, unofficially published at 96 A.F.T.R.2d (RIA) 6126, dismissing the complaint pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim. (A. 6–13.) This appeal followed.

STATEMENT OF THE FACTS

WTP instituted this action by filing a complaint and an amended complaint against the Government. (A. 14–103.) The amended complaint identified plaintiff We the People Foundation as a not-for-profit research and educational foundation that “has been spearheading, since 1999, a nationwide effort to get the government to answer specific questions, first regarding the government’s violation of the taxing clauses of the Constitution, and then, beginning in 2002, regarding the government’s violation of the war powers, money and ‘privacy’ clauses of the Constitution.” (A. 80.) It identified plaintiff We the People Congress as a not-for-profit membership organization whose mission “is to scrutinize governmental behavior at every level, compare that

behavior with the requirements of the State and federal Constitutions,” and then to “non-violently confront unconstitutional and illegal behavior by elected and/or appointed public officials.” (A. 80.) The amended complaint identified as individual plaintiffs Robert L. Schulz, Joseph Banister, John Turner, Sherry P. Jackson, Clifton Beale, and Paul Chappell. (*See* R. 6.)² It referred to individuals named in the caption but not in the body of the amended complaint as additional plaintiffs. (A. 80–81.)

The amended complaint alleged that WTP had petitioned the Government for “Redress of Grievances” relating “to the taxing clauses of the Constitution and the direct, un-apportioned tax on labor.” (A. 81; *see also* 84, 85, 88.) It asserted that WTP had asked the Government to show “where in the Internal Revenue Code it explicitly imposes the legal obligation on an individual American worker to pay taxes on his/her wages or the American companies that hire such workers must withhold.” (A. 96.) The amended complaint alleged that WTP had

² References to Jackson and Chappell have been deleted from the copy of the amended complaint included in the appendix. (A. 82.)

submitted similar petitions relating to “the war powers clauses of the Constitution and the Iraq Resolution, the money clauses of the Constitution and the Federal Reserve System and the ‘privacy’ clauses of the Constitution and the USA Patriot Act.” (A. 84, 85, 88.) It asserted that unidentified individual plaintiffs had “given further expression” to their First Amendment rights “by not withholding and turning over to [the Government] money earned by him/her as a result of his/her labor.” (A. 80–81.)

The amended complaint alleged that the Government had failed “to properly respond” to WTP’s petitions. (A. 79, 84, 85, 87, 89.) It further alleged that individual plaintiffs “were suffering retaliation” from the Government “for Petitioning . . . for Redress of Grievances and for Peaceably Assembling and Associating with other individuals under the umbrella and auspices of the Plaintiff We The People organizations.”

(A. 82.) It asserted that the Government had retaliated “by sending Plaintiffs threatening letters; placing liens on Plaintiffs’ property; levying and seizing Plaintiffs’ property and/or wages; raiding Plaintiffs’ homes and/or offices; forcing Plaintiffs to appear before administrative,

civil and/or criminal tribunals; denying Plaintiffs due process; or by other enforcement actions.” (A. 89; *see also* A. 82, 85, 99–100.)

In its prayer for relief, WTP sought an order “constraining the defendants to meet their obligations under relevant law . . . to provide to the Plaintiffs documented and specific answers to the reasonable questions asked of them by the Plaintiffs” and to address “each of the issues . . . raised by the Plaintiffs in their various Petitions to representatives of the United States Government.” (A. 102.) WTP further sought a temporary injunction prohibiting the Government from taking actions “against the named Plaintiffs in this proceeding and against all others similarly situated” in retaliation “for attempting to Petition the United States Government,” for assembling, for acting as plaintiffs in this action, or for the exercise of other constitutional rights. (A. 102–03.)

The amended complaint attached an affidavit by plaintiff Robert L. Schulz, chairman of We the People Foundation. (A. 104–34.) Schulz described WTP’s “process of petitioning the federal government for a Redress of Grievances relating to the direct, un-apportioned tax on

labor” and its “Operation Stop Withholding,’ a national campaign to instruct company officials, workers and independent contractors on how to legally stop withholding, filing and paying the income taxes.” (A. 105, 131.) He attached as exhibits copies of correspondence from WTP to various Government officials, primarily respecting the constitutionality of the federal income tax. (R. 7, exhibits; A. 248–537.)

Among these exhibits, a document described as a petition forwarded to the Justice Department in March 2002 propounded “538 questions, broken down into fifteen ‘lines of inquiry.’” (A. 127, 334.) Among these “lines of inquiry” were assertions that: “the Internal Revenue Code does not make most Americans liable to file a tax return and pay an income tax” (A. 353); “the income tax is a slave tax, prohibited by the 13th Amendment” (A. 359); “Congress lacks the Authority to legislate an income tax on the people except in the District of Columbia, the US Territories and in those geographic areas within any of the 50 states where the States have specifically authorized it” (A. 370); and “the 16th Amendment did not come close to being ratified but was fraudulently declared to have been ratified” (A. 387). Most of the

questions were requests for admissions, including the following: “[a]dmit that there is no statute anywhere in Subtitle A of the Internal Revenue Code which makes any person *liable* for the tax imposed in 26 U.S.C. § 1 or 26 U.S.C. § 871” (A. 357 (emphasis in original)); “[a]dmit that Americans own less of their labor than feudal serfs” (A. 366); “[a]dmit that . . . it is a violation of due process and a violation of delegated authority for any IRS tax official to refer to any person as a ‘taxpayer’ who does not first identify him or herself as such *voluntarily*” (A. 375 (emphasis in original)); “[a]dmit that there are no implementing regulations . . . which authorize imposition by the government of penalties or interest for nonpayment of the tax imposed under 26 U.S.C. § 1 or 26 U.S.C. § 871” (A. 413); and “[a]dmit that United States Supreme Court Chief Judge Taney in 1863 protested the constitutionality of the income tax as applied to him” (A. 428).

The Schulz affidavit attached as additional exhibits four petitions presented to Congress and the President in November 2002. (A. 129, 445–68.) The petition “for redress of grievances relating to the federal income tax” requested the President, *inter alia*, to “[d]irect the

Department of Justice to immediately cease all civil and criminal investigations, grand jury activity and prosecutions related to enforcement of federal Individual Income Tax laws” and “all investigations, enforcement and administrative activity related to the payment of taxes on individual income”; to “order the release of all persons currently in prison on convictions of crimes related to the individual income tax” and to grant “immediate Presidential pardons to any individual that has been convicted of an income tax crime”; to “[d]irect the IRS to inform the general public, all employers and tax payers that wage withholding, filing of returns and payment of monies for individual income tax purposes is not mandatory”; and to “[s]ubmit to Congress a bill calling for the formal repeal of the federal Individual Income Tax laws.” (A. 467–68.)

The remaining petitions sought “redress of grievances” relating to “the application of the armed forces of the United States in Iraq without a congressional declaration of war,” “the ‘war on terrorism,’” and “the Federal Reserve System.” (A. 446–64.) These petitions asked the Government to admit that, *inter alia*, “War Powers Resolution 50 U.S.C.